

1 Q. However, if the assisted living facility chooses to
2 accept a particular resident for care, the facility shall
3 be responsible for meeting the resident's needs?

4 A. Yes.

5 Q. So in Mrs. -- as it applied to Mrs. Boice,
6 "bedridden" meant a resident who was unable to
7 independently transfer to and from bed, correct?

8 A. Yes.

9 (Video stopped.)

10 MS. CLEMENT: Thank you, Terrance.

11 At this time, your Honor, plaintiffs would seek to
12 call Susan Reuther, R-E-U-T-H-E-R.

13 THE COURT: Miss Reuther, please come forward to our
14 witness stand.

15 When you get there, please remain standing, raise
16 your right hand -- over here -- face our clerk.

17 And, Terrance, can you close that binder, please.

18 THE CLERK: Do you solemnly swear the testimony you
19 are about to give in the cause pending before this Court
20 will be the truth, the whole truth, and nothing but the
21 truth?

22 THE WITNESS: I do.

23 THE CLERK: Have a seat, please.

24 Can you please state your name and spell it for the
25 record.

26 THE WITNESS: Susan Reuther. And it's S-U-S-A-N,
27 R-E-U-T-H-E-R.

28 THE CLERK: Thank you.

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TESTIMONY OF

SUSAN REUTHER, a witness called by the Plaintiffs:

DIRECT EXAMINATION

BY LESLEY A. CLEMENT, Attorney at Law, Counsel on behalf of
the Plaintiffs:

Q. Good afternoon.

A. Hi.

Q. Hi.

Miss Reuther, do you know of an assisted living
facility in Auburn called Emeritus at Emerald Hills?

A. I do.

Q. And can you tell the jurors how you know of this
facility.

A. My mother lived in Emeritus -- or Emerald Hills for
almost two years.

Q. And what was your mother's name?

A. Margaret Boyce, B-O-Y-C-E.

Q. And did your mom have a nickname?

A. Maggie. There were several Margarets.

Q. And what part of the building did your mother live
in?

A. She lived in the Memory Care Unit.

THE COURT: Counsel, at this time, just to make sure
we have no confusion, can we clarify that this Boyce is not
the same.

MS. CLEMENT: Yes. I was just -- you --

THE COURT: Go ahead.

MS. CLEMENT: You read my notes.

1 (Laughter.)

2 THE COURT: No, I didn't but...

3 I am in tune with the jury.

4 So, go ahead.

5 Q. (By MS. CLEMENT) Did you know a resident at
6 Emerald Hills by the name of Joan Boice?

7 A. Yes, I did.

8 Q. And how did you know who she was?

9 A. She was my mother's roommate for about
10 two-and-a-half months, I think, maybe three months.

11 Q. Was your mom, Maggie Boyce, related to Joan Boice?

12 A. No, she was not.

13 Q. And your mom spelled her name B-O-Y-C-E?

14 A. Yes.

15 Q. And you understood Joan spelled her name B-O-I-C-E?

16 A. O-I-C-E.

17 Q. Okay. Did your mother have any disabilities?

18 A. Um, my mother was blind, totally blind. And she
19 also had dementia -- or was getting mild dementia when she
20 entered Emerald Hills.

21 Q. Did your mother -- did your mom need assistance to
22 get in and out of bed?

23 A. Yes.

24 Q. Now, before your mom was admitted to Emeritus at
25 Emerald Hills, did you meet with a staff there to discuss
26 your mom's disabilities?

27 A. Yes. Before I --

28 MR. REID: Nonresponsive, your Honor. It's becoming

1 a narrative.

2 THE COURT: Well, it's responsive. But it's the end
3 of the question.

4 Next question, please.

5 Q. (By MS. CLEMENT) Can you tell the jurors who -- or
6 whom from Emeritus did you speak with before your mom
7 agreed to live at Emerald Hills?

8 A. It would have been, at that time, Nancy -- and I
9 don't remember -- and Melissa was the -- the salesperson,
10 or who I would consider a salesperson.

11 Q. Anyone else?

12 A. There was no nurse at that time. So, no. It was
13 just those two.

14 Peggy. No, Peggy was there for one of the meetings.

15 Q. When you spoke with Nancy -- was that Nancy Cordova?

16 A. Yes.

17 Q. -- and Melissa, the salesperson, what did you tell
18 them about your mother's needs?

19 MR. REID: I'm going to object. It's hearsay and
20 relevance and 352.

21 THE COURT: Overruled.

22 THE WITNESS: I explained that my mother was blind
23 and had mild dementia and that she would need extra care,
24 more care than probably they were used to. And I asked if
25 they had ever dealt with a blind woman before. And they
26 assured me that it was not going to be a problem for anyone
27 in the assisted living or in the Memory Care Unit to take
28 care of her. And I brought my husband that day -- those

1 two days, because I wanted to make sure that he heard the
2 same thing I did; that they had no problem with my mom
3 being blind.

4 I knew it was going to be more work. And I told
5 them, *This is going to be more for your staff because she*
6 *is totally blind and needs help and is starting to lose a*
7 *little -- because of the blindness, she was a little more*
8 *affected by the dementia.*

9 Q. (By MS. CLEMENT) And what was the response of Nancy
10 Cordova when you told her -- told her that your mom was
11 going to need more care because she was totally blind and
12 also had dementia?

13 A. They said, *No problem.* That they had dealt with
14 issues like this and it would be not a problem for their
15 Memory Care Unit to take care of mom.

16 Q. When you met with Nancy and Melissa to discuss
17 whether they could accept your mom to their facility and
18 care for her, were you told what services that they would
19 provide your mother?

20 A. Well, there was, of course, going to be nurse --
21 full-time nursing staff that would be on -- on the property
22 at all times. Even in evenings, they assured me, we could
23 reach her by phone.

24 There would be activities. My mother was still very
25 active mentally, as far as wanting to enjoy music and

26 That there would be aid for her getting to and from
27 the restrooms and the dining hall.

28 And that there would be medications given. She was

1 not able to give any medication to herself, so that
2 medications would be covered.

3 Generally, what you would understand to be available
4 in a Memory Care Unit.

5 Q. Were you -- was there any discussion of creating an
6 individualized care plan for your mother when you first
7 approached Nancy and Melissa about your mother living at
8 Emerald Hills?

9 A. There was never a care plan for her. I asked about
10 that because that was one of the issues -- one of the
11 things they'd mentioned, that their nurse would work up a
12 care plan for mom, which I really never understood exactly
13 what that was going to be. But I never saw one. I was
14 never given one.

15 Q. So did your mom then -- obviously, she did become a
16 resident there.

17 A. Yes.

18 Q. And how often would you visit your mom?

19 A. Every other day, if not every day, in the last
20 probably eight months she was there. Except Saturdays.

21 Q. And why not usually on Saturdays?

22 A. We have a cabin and we would leave town on Friday
23 afternoon and return on Sundays.

24 Q. And during the time that your mom lived at Emeritus
25 at Emerald Hills, did you work outside the home?

26 A. Yes.

27 Q. And what did you -- what did you do?

28 A. I'm a mortgage broker. During the bad times.

1 (Laughter.)

2 Q. (By MS. CLEMENT) And did you feel -- well, let me
3 ask you this: Do you remember the time period that your
4 mom was actually a resident at Emerald Hills?

5 A. August of 2008 through April -- she died on April
6 19th, 2010.

7 Q. Did you feel like Emeritus delivered what they
8 promised to you?

9 A. No.

10 Q. To your observation, in visiting the facility at
11 least every other day, did you see that they had a
12 full-time nurse available to provide care to your mom?

13 A. No.

14 Q. How do you know that? I mean, what did you do to
15 try to determine that?

16 A. Well, there were times -- I mean, there were several
17 incidents where I needed to speak with the nurse that was
18 on -- that was there regarding medications for mom, or she
19 was ill and maybe needed extra medication or -- and there
20 was no one there. When I'd ask if I could have a meeting,
21 they would say, "She's not here today" or she's at -- or at
22 night, if we tried to reach her, if mom was sick, there was
23 no way to reach her. So, no, there was not a nurse. And
24 many times there was no nurse.

25 Q. When you say "many times there was no" --

26 A. Well, I meant there wasn't even -- they would lose
27 their jobs. I mean, they would all of a sudden be gone.
28 They'd just be gone. And then they'd bring in somebody

1 else for a while.

2 Q. How about activities? Did -- to your observation,
3 did they provide activities for your mother?

4 A. They tried -- I mean, the staff tried. They were --
5 they were the ones that had to do the activities for these
6 19 people in the memory care. And mostly what they did was
7 bingo. And that was -- that was probably one of the worst
8 things you could have presented to my mother, but I'm sure
9 other people maybe liked it. There would be two or three
10 people. Or they would sit in a group and sing. But it was
11 the staff. There was never anybody that came from "the
12 entertainment section," I called it, of the home that would
13 come and help work with the Memory Care Unit.

14 Q. When you say "the staff," do you mean the
15 caregivers?

16 A. Right.

17 Q. How about outings? Did your mom ever get to go out
18 on outings?

19 A. I think she went on one in the two years. They had
20 a bus that -- you know, it was hard for them to take mom
21 because she was blind, and so that meant you had to help
22 her on the bus, help her -- and so they didn't invite her
23 many times, I think, because of her eyesight issues. But I
24 think once she went on a bus trip with the -- and it was to
25 see the Christmas lights, which, once again, was probably
26 not what she needed that day.

27 Q. Did you ever complain to the executive directors or
28 administrators at Emeritus Emerald Hills about the lack of

1 activities for your mom?

2 A. Well, yes. Because she was very active, enjoyed
3 getting out. That was part of her life. So she enjoyed
4 being taken down -- hopefully, down into the -- well, I
5 asked them why they couldn't take her into where the larger
6 group was in the assisted living area, and they said they
7 didn't have the people to help her go down there. But she
8 would have enjoyed the activities down there, I think. And
9 they just didn't have the people to take her down.

10 So I did ask management if there was more people
11 that could be brought in to her -- the Memory Care Unit to
12 work with her, or the whole group.

13 Q. Yeah. When you say "the whole group," you mean the
14 rest of the residents?

15 A. Right.

16 Q. And did you ever see that happen?

17 A. No.

18 Q. What did you do, if anything, in response to the
19 lack of activities for your mom?

20 A. Well, um, I called on Home Instead, which is a group
21 in California statewide, and I asked them to send someone
22 three days a week, for three hours a day. On Tuesdays,
23 Thursdays and Saturdays, I usually had them come. And they
24 would give mom one-on-one. And they would play Yahtzee.
25 And she would sit with mom, take her out for walks. It was
26 additional funds I had to pay, but it was a time when I
27 knew she was enjoying herself and that someone was caring
28 for her. And they were also my eyes on days I couldn't be

1 there.

2 Q. And can you share with the jury how much you were
3 paying for your mom to share a room in the Memory Care
4 Unit.

5 A. It was 4,865 on the last year she was there. And
6 then I paid twenty dollars an hour to Home Instead to come.

7 Q. Did you have any concerns about the food that your
8 mom was being fed at Emerald Hills?

9 A. Um, the food was all right, I think. I mean, it
10 was -- she would complain about it, but I -- you know, I'm
11 not sure that she -- since she was blind, they just put her
12 at a table and let her get her own fork and spoon. And I'm
13 not sure she knew -- she exactly was able to do all that
14 all the time. If I was there, I would sit with her and
15 make sure she was getting -- I'm not sure she knew what
16 they were feeding her.

17 Q. Did you ever have any concerns about her
18 medications?

19 A. Oh, yes.

20 Q. Can you tell us what those concerns were.

21 A. Well, I always took her to the doctor because the --
22 the home never took her to the doctor because they didn't
23 have staff that would take a blind woman to the doctor. So
24 I always took her to all her appointments. And I would ask
25 for her meds before I went each time, the list of her
26 medicines and how often it was given. And they wouldn't
27 give that to me because they said it wasn't my business to
28 check that. And so finally I would say, you know, the

1 doctor wants to see what the medicines are that she's
2 getting now. I knew exactly what they should be because I
3 kept track of it. I ordered most of it.

4 And finally, they -- they would just give me -- cut
5 off the times it was given. Because she had certain
6 medications that she was given three times a day and
7 certain medications she was given in the morning and at
8 night. But they would only cut it off and hand me -- I
9 think it was called the MARs. So all I knew was what was
10 on the page, was what medications they were.

11 Finally, I insisted at one point that I see because
12 there was -- she was failing and I couldn't figure it out.
13 And I said, *You have to show me the full page on the hours*
14 *that she's getting it.* And I couldn't understand why they
15 wouldn't because it's my mother.

16 And so finally one of the aides -- I guess the
17 pill-givers -- I always called them the pill-givers -- gave
18 me the whole sheet. And then I was able to see that there
19 were missing times on certain medications. And I would
20 say, *Why wasn't she given her medicine at this time?* And
21 they never truly had an answer. I mean, maybe they said
22 they forgot to initial the -- that time. The caregiver
23 forgot or the pill-giver forgot to initial them. I just --
24 it was just missing many different hours.

25 Q. Did you ever have any more serious complaints than
26 what you've already told us about your mom's care at
27 Emeritus?

28 MR. REID: It's vague and overbroad. 352.

1 THE COURT: She can answer.

2 THE WITNESS: There were several times when mom was
3 at the home that there were big issues. I mean, I learned
4 to pick my battles. I think you learn to do that with your
5 teenagers, and your mother, I guess.

6 But she -- I think there were times when I knew
7 there was neglect, but I was there often enough that I
8 could generally recover from it. But there was one day
9 when I came into the home and Lynda, who was a caregiver
10 there, and a good caregiver, met me at the door and said,
11 *There was an issue this morning and you need to know about*
12 *it because you're going to hear about it.* And my mom was
13 very good at letting me know what was occurring.

14 And she -- I said, *What happened?* And she said, *She*
15 *was tied into her wheelchair today with her robe belt. And*
16 *her buzzer was taken away from her.* I said, *Why would they*
17 *do that?* And she said, *I don't know, but you need to know*
18 *because Margaret -- Maggie is going to tell you about it*
19 *the minute you get into the room.*

20 So I went in. And she was visibly upset and said,
21 *Why was I tied into my chair?* And I said, *I don't know,*
22 *mom, but I will find out.*

23 And the two caregivers that had tied her in were --
24 I went to Rich. I think Rich Lee was the manager right
25 then, and he said he would take care of it. Evidently,
26 there was -- there were two caregivers on the floor. I
27 don't know, maybe they were giving -- I don't -- that would
28 be -- I don't know. But she was tied in the chair and left

1 there for at least a half an hour. And when Lynda came on
2 duty, she found her and untied her.

3 That was one incident. And I turned that one in.

4 She was --

5 Q. Can I ask you a question about that?

6 A. Mm-hmm.

7 Q. When you say you "turned that one in," what does
8 that mean?

9 A. I went to Rich on that one. I said, *You know, I*
10 *didn't see it.* So I could not go to the State and say this
11 is an incident without -- I didn't visually see the
12 incident. But I trusted Lynda's judgment, that she saw it.
13 She was a caregiver on the floor. And Rich said he would
14 investigate. And he got back to me and said that they had
15 been questioned. And they -- evidently, whatever they told
16 him appeased his feeling for it or whatever the issue was,
17 and that they would take care of it internally is what he
18 would say.

19 Q. So any other serious concerns you had about your
20 mother's care?

21 A. There was a day just -- just two months before she
22 passed away. And I was there on a Saturday. I never was
23 there on Saturday mornings, but hospice was coming in that
24 day to meet with me and meet my mom. And I walked in the
25 front door and the nurse, Nanette, the pill-giver, was
26 walking into the Memory Care Unit at the same time and she
27 said, *I'll go with you.* And when we got into the kitchen
28 area -- it was breakfast time -- I turned the corner and my

1 mom wasn't in her usual seat at the table. She was on the
2 floor, laying on the floor on the linoleum, and just laying
3 with no pillow, no blanket. Just laying on the floor
4 moaning. And I think Nanette -- I don't know who was more
5 in shock, Nanette or myself. And I said, *What is going on*
6 *here?* And the two caregivers said, Your mother was acting
7 up and we put her on the floor.

8 And at that point, I turned around and said, You
9 *have seen this.* And there was no pillow, no blanket.
10 She's a hundred pounds, if that, at that point, 90 pounds
11 maybe. And she wasn't acting up at that moment. And I was
12 able to get her up.

13 But at that -- on that occasion, I did call the
14 State, an ombudsman. And they did come and investigate.
15 And I think they met with the two caregivers, the same two
16 caregivers once again, who didn't -- you know, they tried
17 to work with them and say, *Your best bet would have been to*
18 *call for help.* But I -- there was another person in the
19 building that could have helped. But that was another
20 incident that I did get -- turn to the State.

21 And then it was not unusual for them to be left
22 in --

23 Q. Well, let me ask you another question.

24 A. Okay.

25 Q. Okay. Do you remember anything about the two
26 caregivers who were in with your mom when they had her
27 laying on the floor?

28 A. Um, it was a boy -- it was, um -- I can't think of

1 their names. A man -- a young man. A young man, probably
2 in his twenties. And I can't think of what her name was.
3 She was, um -- they had been there -- she had been there
4 quite some time. He was fairly new. And they did the
5 morning shifts mostly, between 6:00 and noon.

6 Q. Did you ever have any concern about caregivers at
7 Emeritus not being able to speak English?

8 A. Well, those two particularly had an issue. And
9 maybe that was the issue that day, when they were telling
10 me she was -- is they did not speak great English. And
11 there were many of the night -- I think more night staff
12 that probably had trouble speaking English. I always
13 thought that was why they were on nights maybe, because
14 they didn't have to.

15 Q. Did you have any other concerns that were serious
16 concerns about your mom's care?

17 A. Well, I received a phone call, oh, gosh, about a
18 year after she'd been there, from -- at 6:30 in the morning
19 from the -- one of the pill-givers again, saying, *Your*
20 *mother's had a bad fall. We've called an ambulance. She's*
21 *on her way to the hospital.*

22 And I met the -- in fact, was in the car and met the
23 ambulance as soon as -- well, no. She was already into the
24 ER room. And she had been left in her chair that leans
25 back, which I'd always told them, *Please don't put her in*
26 *there. She doesn't know how to bring the chair forward.*

27 But she'd been in that chair. I think probably they
28 had said, *You know, we'll leave you here until breakfast*

1 *and we'll come get you. I'm not -- I don't know what*
2 *happened. But she tried to get out of the chair and it was*
3 *a -- she couldn't. Because she was blind and she couldn't*
4 *see that her leg got caught in the -- between where the*
5 *chair went back. And so --*

6 MR. REID: Your Honor, I'm going to object that it's
7 a narrative and --

8 MS. CLEMENT: I'll ask another question. Sorry.

9 THE COURT: The objection is sustained.

10 Q. (By MS. CLEMENT) This type of chair you're talking
11 about, is this a recliner chair, where you pull the legs
12 and come up?

13 A. Right.

14 Q. Did your mom get out of her recliner?

15 A. She didn't know how to bring it back.

16 Q. Did you see other residents in the Memory Care Unit
17 being put --

18 THE COURT REPORTER: I need you to repeat it.

19 MS. CLEMENT: Yeah.

20 Q. (By MS. CLEMENT) We can't talk at the same time.

21 A. Okay.

22 Q. Did you see other residents in the Memory Care Unit
23 that were put into recliners with legs up?

24 A. Yes.

25 Q. Was it your observation that those residents
26 couldn't get out of the recliner once they were in them?

27 A. Yes.

28 MR. REID: It's overbroad and lacks foundation, your

1 Honor.

2 THE COURT: Sustained on foundation.

3 Q. (By MS. CLEMENT) Did you observe residents in the
4 Memory Care Unit try to get out of the recliners and were
5 unable to?

6 A. Yes.

7 Q. And your mom was one of those?

8 A. Yes.

9 Q. And had you previously, prior to this fall that she
10 had, told the staff that your mom -- you did not want your
11 mom in that recliner?

12 A. Yes, I fixed -- tried to fix the recliner so it
13 couldn't go back. It was electric. So I unplugged it so
14 she couldn't accidentally do it. But it was plugged back
15 in, I'm sure. Many times I went in and it was plugged back
16 in.

17 Q. And can you tell us what happened to your mom that
18 time when she fell out of the recliner and you got the call
19 at 6:30 in the morning.

20 A. She evidently came down on a dresser that was across
21 the room from where the chair was and hit her face where
22 her teeth went through her cheek. And when I got there,
23 her teeth were sticking out of her cheek. It was a
24 horrible accident.

25 Q. Um, do you remember Joan Boice?

26 A. I do.

27 Q. Can you tell the jurors what you remember about
28 Joan.

1 MR. REID: It's vague -- vague and overbroad, your
2 Honor.

3 THE COURT: Overruled.

4 THE WITNESS: Joan came into my mom -- my mom had
5 been there about a month, and I think she was the first
6 roommate mom had there. And when she came in, she was
7 still up. She was walking with a walker. She was able to
8 get around. And she was, I think -- it was hard for her.
9 It was hard for all of them. But she was sad. Her husband
10 came to see her every single day. And she would wait for
11 him at the door, or she would be sad until he got there.
12 But she was -- she didn't have a lot of conversation with
13 my mom, but I observed her because I was there a lot.

14 And she was still up and walking and -- with a
15 walker -- and would go down to the door that locked in the
16 memory care patients and wait. Or she would be somewhat in
17 the -- in the -- what I called the TV room, where they'd
18 leave the TV going all day long. And she would sit there
19 and wait for her husband.

20 Q. (By MS. CLEMENT) Did you ever see the staff engage
21 in any activities with Joan, like, you know, fun-type stuff
22 with her?

23 A. She was in the room in her -- they put her in a
24 wheelchair at that point. I think maybe -- either she was
25 sitting in one of the chairs in the -- in the entertainment
26 room or in a wheelchair. And they would put her in the
27 same room with the rest of them when they were playing
28 bingo, or listening to music, or singing. I don't remember

1 them on a one-on-one, any -- any one-on-one with Joan.

2 Q. So do you remember that sometime after Joan was
3 admitted to the facility that she went from walking with a
4 walker to where the staff just had her in a wheelchair all
5 the time?

6 A. Yes.

7 MR. REID: I'm going to object that it's leading.

8 THE COURT: Sustained.

9 Q. (By MS. CLEMENT) Did you see a change in how Joan
10 ambulated or got around the facility shortly after -- well,
11 at some point after she came in?

12 A. Yes. She was not walking with her walker. I would
13 guess about a month or so into -- when she came to mom's
14 room, she was put in a wheelchair, and mostly always was in
15 the wheelchair.

16 Q. Did the staff ever talk to you about Joan?

17 A. Well, yes. Because I was there a lot, I knew the
18 staff really well and -- and worked with them a lot just
19 with mom. So when Joan became, I guess, where she was not
20 getting out of bed any more, they would come in the room
21 and they would be there for an hour. And there would be
22 two of them. And that was all that was on the floor that
23 day or that night. And it would become an issue because my
24 mom didn't really know what was going on and she'd say, *Why*
25 *are they here? Why aren't they helping with me?* And I'd
26 go, *They have to help Joan, mom.*

27 But what really was part of the big issue for the
28 staff was the fact that she had developed bedsores. And

1 they didn't know how to take care of them. They told me,
2 *This is the worst -- we don't know what to do.* And they
3 would be trying to, I think, clean the bedsores while I was
4 sitting there and trying to -- and it would take them maybe
5 an hour, hour-and-a-half just to roll her over and get her
6 to where she could -- they could get to the bedsores and
7 then get her -- try to get her out of the bed and into a
8 wheelchair to go to a meal or -- at that point, just to get
9 her into the bathroom was quite a process.

10 So they -- they were overwhelmed.

11 Q. (By MS. CLEMENT) Did the staff ever complain to you
12 about concerns they had about their jobs?

13 A. You know, when you are there as often as you are
14 with young staff people that have a life, too, you get to
15 know them fairly well. And you get to know the good, the
16 bad, and the ugly of their entire days, which -- just
17 because you observe it. And you feel bad because you know
18 that part of it is just because they're overwhelmed.

19 And so I would observe them and try to make -- you
20 know, if you can bring a smile to anybody's face, it would
21 have been those girls. Because they worked hard. They
22 were trying to give showers with -- and feed and take care
23 of 19 people. So they would not -- they weren't -- they
24 were afraid to complain. They didn't complain. They just
25 would -- you could tell, *We can't do it. We just can't*
26 *keep up with all of it.* And that was an every day
27 occurrence pretty much.

28 Q. Why didn't you take your mom out of there?

- 1 A. Well, when, um -- you know, you always -- hindsight.
2 First of all, every time you move an old person it's
3 really hard on them. And I worked and lived within a very
4 few miles of Emerald Hills, so it was -- it was one of the
5 reasons I put her there. I could be there in five minutes,
6 and was many times. And I wish now many times that I had
7 maybe moved her; that maybe I would have seen through some
8 of what I was seeing and not hoped it would get better.
9 But I wanted her not to have to go through that fear of
10 another move, of moving her to a different place. She --
11 she knew the names. She knew the people. She thought she
12 had friends, you know, that were there. So it would have
13 been really hard to move her another time and start that
14 all over again. I couldn't bring her home because I work
15 full time. And it was regretful that, at times, I didn't
16 make that change.
- 17 Q. Did you ever take your mom home?
- 18 A. Every Sunday, I went and got her. On Sundays, I
19 would go pick her up about noon and she would spend the day
20 with us, or at the grandkids' house, or eat dinner with us,
21 and I would take her back about 9:00 o'clock on Sunday
22 night. And it was good for her, but it was good for staff,
23 too. Because they would always say, *That's one less person*
24 *that we have to try to get to bed at night.* Or I would --
25 you know, you knew that it was a relief, kind of, on those
26 Sundays when I took mom.
- 27 Q. Did you ever have any concerns about the staff's
28 ability to respond to your mom's pendant or call light?

1 A. Well, that was a big problem. And that's one of the
2 things we talked about before I ever put her in there. I
3 said, she will -- they had a pendant. And when you're
4 blind and you don't know how to get to the bathroom or
5 where the bathroom is or -- you have a tendency to push
6 that pendant when you feel like you have to go to the
7 bathroom. Or maybe sometimes she was pushing it because
8 she didn't have anybody in the room or no one -- she didn't
9 know where anybody was.

10 And I told them that to begin with. I said, *She*
11 *will need help going to the bathroom, and it might be more*
12 *than three times a morning. And so you need to be aware of*
13 *that, that it's going to be an issue. Can you handle that?*
14 And that was one of the big questions I had because I knew
15 it was going to be an issue. And they had no problem with
16 that.

17 But many times when I would get there, I could hear
18 her pushing her button and yelling. If she couldn't get
19 them to come by the button, she would be yelling. And I
20 could hear her when I opened the door, "Help, help." "Help
21 me." So I don't know, you know, if -- how long that had
22 been going on or if it -- it was just part of what occurred
23 on a daily basis.

24 MS. CLEMENT: Thank you, Miss Reuther.

25 MR. REID: Good afternoon, ladies and gentlemen.

26 JURORS IN UNISON: Good afternoon.

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CROSS-EXAMINATION

BY BRYAN R. REID, Attorney at Law, Counsel on behalf of the Defendant:

Q. Miss Reuther, my name is Bryan Reid. I represent Emeritus Emerald Hills.

And I want to ask you some questions about -- you know, follow up on what you've testified about.

I have -- I don't have -- I've never seen your mom's record, so bear with me if I ask questions that seem obvious. I apologize.

I think you said that your mom moved in to Emerald Hills in August of 2008.

A. Mm-hmm.

Q. Is that correct?

A. Mm-hmm.

Q. Okay. You need to use words.

A. Oh, yes. Yes. I'm sorry.

Q. That's all right.

And she was there -- you said she passed away on April 19th, 2010.

A. April 21st, it was actually.

Q. Oh, okay.

And so she resided there the last year-and-a-half of her life; is that correct?

A. Yes.

Q. The -- did you utilize any outside services during the last portions of her life?

A. Besides Home Instead?

1 Q. Yes.

2 A. Um, hospice came.

3 Q. Okay. When did hospice start coming to assist with
4 your mom's care?

5 A. About six weeks before she passed away.

6 Q. And tell us how that came to be. How did that
7 happen?

8 A. Hospice?

9 Q. Right.

10 A. Well, in general, she was slowing -- she was -- had
11 pretty much quit eating very much. And I felt that we were
12 seeing a general decline in health. No specific health
13 issue. And so I took her to the doctor and he and I talked
14 about it. And, you know, he said, *I'm going to suggest*
15 *hospice come in*. I didn't feel it was necessary, but
16 hospice doesn't always mean that they're dying. It can
17 mean that they're just going through a bad time and can get
18 better.

19 Q. Okay.

20 A. So I think she came once a week for six weeks.

21 Q. Okay. So you say "she." Then there was a nurse
22 that was coming in to take care of your mom once a week?

23 A. Right. She would check with the staff. She would
24 make sure the pills that we were -- had agreed upon were
25 being given and check on my mom and leave.

26 Q. Were you there when -- were you ever there when the
27 hospice nurse was there?

28 A. Yes.

1 Q. And how many times were you there when the hospice
2 nurse was there?

3 A. I usually knew when she was coming, and I wanted to
4 know that -- what was going on, if there was a failure, if
5 there was -- if she was seeing anything worse. So I would
6 always be there just about, when I knew -- I mean, they
7 pretty much come on the same day.

8 Q. Do you remember what day of the week it was that the
9 hospice nurse was visiting?

10 A. No. I don't remember. It might have been a Tuesday
11 or a Thursday. I -- I don't know.

12 Q. Okay. I think you said that when -- after your mom
13 first moved into Emerald Hills, you typically visited her
14 every other day.

15 Was that right?

16 A. Yes.

17 Q. And then the last eight months or so, you were there
18 every day?

19 A. Yes, pretty much.

20 Q. What -- let's focus on the -- after she first moved
21 in and when you were coming every other day.

22 Did you have a routine? Was there a specific time
23 you were coming in?

24 A. No.

25 Q. All right. So what hours of the day would you tend
26 to visit your mom?

27 A. If I was not busy in the morning or she needed
28 something in the morning, I would go in the morning. If I

1 was not working in the afternoon, I'd sometimes -- on the
2 days that she did not have Home Instead there, I would go,
3 say, from 3:00 to 5:00 and sit with her. I many times did
4 her laundry, most of the time did her laundry.

5 Q. You mentioned Lynda as one of the caregivers there
6 in the Memory Care Unit.

7 Are there any other folks that you remember that
8 worked in the memory care area while your mom lived there?

9 A. Mm-hmm.

10 Q. Who else do you remember?

11 A. Oh, I'm Sorry. Sorry.

12 Q. That's okay.

13 Who else do you remember working there?

14 A. Jenny. Michele. Heather. Nanette was the
15 pill-giver. I mean, their names come and go. They are the
16 main -- Osmond, I think, was the boy that was there -- that
17 was there when she was laying on the floor.

18 Q. All right. Was there anything about Emerald Hills
19 that -- well, first of all, that you liked or appreciated?

20 A. Well, I liked what I heard at the beginning. I
21 mean, I don't think there's a child that wouldn't like to
22 hear they can take care of your mother that's blind and
23 getting dementia and keep her happy and safe. Those were
24 the words I wanted to hear. And I brought my husband, so
25 he heard the same words, because that was my concern.

26 The girls were good girls. I mean, they all worked
27 hard. And I don't know what their pay was. I don't think
28 it was high. I mean, sometimes they'd tell me they'd get a

1 raise and it would be a ten cents an hour raise. I mean,
2 they worked hard. So, I mean, I appreciated how much work
3 they had to do. Um, you know, I just think that it was
4 more than -- and I'm not -- I'm just speculating here, that
5 my mom was probably -- should not have been even brought
6 into that program.

7 Q. Okay. Well, I want to talk about the staff then.

8 Did -- did you ever have a concern -- you talked
9 about Jenny and Michele and Heather and Nanette. Did they
10 seem dedicated to taking care of the residents?

11 A. Oh, yeah. I think that they cared greatly.

12 Q. Okay. How about -- do you remember Alicia, the
13 memory care director?

14 A. She was there for a while when I first went. Alicia
15 was a very nice lady. I think -- I think Alicia told you
16 what you wanted to hear. I think she was corporate
17 trained, and sometimes you can be so corporate trained you
18 just tell families what you think they need to hear. And
19 she was very sweet. When she got pregnant, she immediately
20 left. So I think she was happy to -- I think it was
21 probably a time for her to stay home. But she was one of
22 those kind of happy, joyous people that just said, *We're*
23 *going to take care of your mom. Don't worry. Everything's*
24 *going to be fine.*

25 Q. Referring to Joan Boice --

26 A. Mm-hmm.

27 Q. -- did you ever meet any of her family members?

28 A. Yes.

- 1 Q. Okay. And you saw them visiting?
- 2 A. Oh, yes.
- 3 Q. Well, you mentioned her husband --
- 4 A. Husband.
- 5 Q. -- every day.
- 6 A. Her husband came every day.
- 7 Q. Okay. Who else do you remember meeting?
- 8 A. Well, I think her son or daughter-in-law. I don't
- 9 remember. They weren't there as much as the husband. Or
- 10 if they were there, they were maybe there at different
- 11 hours than I was. I remember when they moved her in. And
- 12 I remember when they had to come and move her stuff out.
- 13 But I didn't have a huge conversation with them.
- 14 Q. Okay. You said you remembered seeing Mrs. Joan
- 15 Boice in the entertainment room when activities were going
- 16 on.
- 17 Do you recall that?
- 18 A. Yes. Everybody had to go. I mean, they took
- 19 everybody down.
- 20 Q. All right. How many times do you remember seeing
- 21 Mrs. Joan Boice in the activity room?
- 22 A. She was there, you know, probably three times a
- 23 week. When I would be there, I would see her in that room,
- 24 or else she would be back in mom's room in her wheelchair,
- 25 or -- or her husband would be there.
- 26 Q. Focusing on the entertainment room.
- 27 A. Okay.
- 28 Q. Can you tell us how many times you remember seeing

1 her in the entertainment room?

2 A. Maybe -- the times I was there, you know, maybe two
3 times a week I would see her sitting in the entertainment
4 room. I mean, you have to understand, sitting in the
5 entertainment room meant sitting in the entertainment room.

6 Q. Okay. I just want to find out what your memory is
7 in terms of where you saw her.

8 A. Right.

9 Q. So you remember seeing her a couple times a week in
10 the entertainment room?

11 A. Right.

12 Q. Okay. Where else did you see her? You saw her in
13 your mom's room?

14 A. Right.

15 Q. Did you see her anywhere else?

16 A. At dinner. There were several times where she would
17 be pushed up to the table to be -- to eat in her
18 wheelchair. Um --

19 Q. Okay. Now, your mom, you said that when she lived
20 there she knew the staff's names. She knew the people, and
21 she had friends there at Emerald Hills.

22 Is that correct?

23 A. No. She thought she did.

24 Q. She thought she had friends?

25 A. Yes.

26 Q. Okay. Now, when it came to your mom's care and --
27 were there ever times that you met with any of the staff to
28 talk about your mom's care needs?

1 A. All the time.

2 Q. Okay. And would there be documents prepared and
3 discussions had about your mom's care needs?

4 A. I never saw a document. I went to see -- I think it
5 was Nancy at one point, to say, *What have you worked up for*
6 *her? I mean, I see no plan for mom.* And she said, *We're*
7 *working on it. We're working on a plan for your mom.* But
8 I -- I never really knew what the plan was going to be for
9 mom. *Are you going to walk her up and down the halls? Are*
10 *you going to -- no one ever showed me a plan. I never saw*
11 *a plan.*

12 Q. Were there ever times that you complimented anybody
13 at Emerald Hills?

14 A. (Laughter.) Um, every Christmas, I did a pizza
15 party for everybody in the Emerald Hills.

16 Q. Okay.

17 A. I brought -- I made sure -- when you have a mother
18 in a home, you make sure that they're happy.

19 Q. Okay.

20 A. You know, you try to make sure that the staff likes
21 you. There's a reason for that.

22 Q. So my question was, did you compliment people there
23 then at Emerald Hills?

24 A. Of course.

25 Q. How about the -- any of the managers? Did you ever
26 compliment any of the managers?

27 A. Wow. Um, the managers. No. Um, Rich Lee was a
28 nice guy. He was, um -- he was a boat salesman before he

1 was a manager there. I had no idea how he managed it. And
2 he was a very nice man. That's all I can say about Rich.
3 Nancy was -- they were in their offices. They never came
4 back and participated in anything in the memory care.

5 Q. Who weren't nice people at Emerald Hills?

6 A. Who weren't nice people?

7 Q. Mm-hmm.

8 A. Um, I don't think there were people that meant to be
9 not nice. Um, the nurses, I never -- I didn't get anything
10 from the nurses. They were either too busy or weren't
11 there. It wasn't that they weren't nice people. I'm sure
12 they were. They just weren't effective.

13 Q. Okay. So from your observation then -- well, strike
14 that.

15 Was there ever a time that you considered -- I know
16 you didn't move your mom, and you told us why. Was there a
17 time that you considered moving your mom?

18 A. Um, in fact, I spoke to the hospice nurse when she
19 came in, that day that she came to Emerald Hills to -- that
20 was the day that I found mom on the floor. And she walked
21 in sort of right at the time that I was getting her into
22 her room. And I told her what had happened.

23 And she said -- and I'm quoting from -- I know this
24 is my hearsay. She said, *We -- none of us at hospice like*
25 *working at Emerald Hills with our patients.* And I said, *Do*
26 *you recommend something else to do with mom? Because I am*
27 *maybe seeing her last week.*

28 So the last thing you want is for your mom's last

1 weeks to be miserable. So she said, *Other than going into*
2 *a --*

3 Q. A skilled nursing home?

4 A. -- *a skilled nursing home, there is no place at this*
5 *point. So I couldn't move her at that point until we knew*
6 *if she was going to make it through whatever was happening.*
7 *And I did talk to the home, Auburn -- Auburn Ravine is a*
8 *home, another -- they have a skilled care. And I spoke to*
9 *them, but they had no room for her. So I couldn't move her*
10 *at that point. And I did talk to Emerald Hills and said,*
11 *My mom may only have weeks left. Can we get this -- can we*
12 *get her through this?*

13 Q. Okay. So during the time -- the year-and-a-half or
14 so that your mom was living at Emerald Hills, did you ever
15 look at whether there was another assisted living Memory
16 Care Unit in the area that you thought about moving her to?

17 A. There was only one other that I know of in Auburn,
18 and they were full. I knew the staff there. And they were
19 not taking people. But once again, when you move somebody
20 that's been -- it's hard. So you try -- that's why I was
21 there every other day.

22 Q. What was the -- what's that other community?

23 A. Oh, it's on Bell Road in Auburn. Oh, I can't think
24 of the name of it. It's -- it's -- it also is a fairly new
25 Memory Care Unit and mostly assisted living. I think they
26 had room for ten people.

27 Q. And when was it that you looked into that?

28 A. That was probably a year after mom had been -- I

1 mean, when I realized that she probably was not going to
2 get exactly what I was hoping, then I looked around again.
3 But once again, I didn't want to have to move mom. I
4 didn't want her to have to go through that, learning again.

5 Q. So I'm interested to know how you wind up here
6 today, testifying in trial. How is it that you knew this
7 trial was going on?

8 A. Well, I -- it's funny. Because I ran into Alicia --

9 Q. Mm-hmm.

10 A. -- I guess about, I don't know, maybe a year ago.

11 And it was at Longs -- I mean, at CVS. And we chatted.

12 And she said, *Did you know that there is a -- do you*

13 *remember Joan Boice?* And I said, *Yes.* And she said, *Did*

14 *you know there's a -- there's a lawsuit going on with*

15 *Joan's family?* And I said, *No, I did not know that.*

16 And so I was aware there was some sort of an issue
17 with the Boice family. And I wasn't even surprised
18 truthfully. I was kind of thinking to myself, *That doesn't*
19 *kind of surprise me.* But then I didn't hear anything about
20 it and didn't read anything about it until I got a phone
21 call. And probably through -- I kept in touch with some of
22 the caregivers. I knew some of them that had lost their
23 jobs and we just -- you know, they were very fond of mom,
24 and I was very fond of them. So we kept in touch.

25 And so then about, I think, maybe three months ago
26 or four months ago, someone called me and said, *Would you*
27 *be willing to talk about your experience?* And I said, *Yes.*
28 *For the future of all elderly.*

1 Q. Was that somebody from Miss Clement's office that
2 had called you?

3 A. He was a private investigator, I think. I don't
4 know that --

5 Q. So did -- so they reached out -- the private
6 investigator reached out to you and asked you if you'd be
7 willing to be involved?

8 A. To talk.

9 Q. Okay. And then -- then after you talked to that
10 private investigator, did you meet with Miss Clement?

11 A. I did.

12 Q. When is the first time you met with her?

13 A. Besides today?

14 Q. Yes.

15 A. Probably three months ago. Two months ago maybe.

16 Q. Where did that meeting take place?

17 A. Um, at a restaurant in Roseville, kind of between
18 Sacramento and Auburn, right in the middle, on Douglas
19 Boulevard.

20 Q. All right. So you must have had lunch or breakfast.

21 A. Just coffee.

22 Q. Okay. And how long did that meeting last?

23 A. About an hour.

24 Q. What did Miss Clement tell you during that meeting?

25 A. She just asked me about my experiences. We had not
26 really -- we had not ever chatted. And she asked me about
27 the experiences I had had and was asking me if I'd be
28 willing to talk about it.

1 Q. Okay. Did she tell you anything about her case or
2 her thoughts about Emeritus?

3 A. Well, obvious -- did she tell me anything?

4 She talked about what she wanted to do, what her
5 plan was, what her hope was. I would guess that would be
6 what her hope was; that -- that our parents, or myself, or
7 my children would not have to deal with what the Boices had
8 had to deal with, or that I had had to deal with. That was
9 her hope; that people would wake up and see there needs to
10 be some changes maybe, and maybe experience would help
11 that.

12 Q. Have you ever had an experience with any other
13 assisted living, or is this -- is this your only experience
14 with assisted living?

15 A. No. I have had other experiences.

16 Q. And then -- so you met with Ms. Clement this
17 morning?

18 A. Just at lunchtime. She came -- and I don't even
19 think she grabbed a sandwich -- and left.

20 Q. Did you go over any documents or see any pictures or
21 anything like that?

22 A. No.

23 MR. REID: Those are all the questions I have.
24 Thank you.

25 THE COURT: Anything else, Miss Clement?

26 MS. CLEMENT: No, your Honor.

27 THE COURT: Ladies and gentlemen, do you have any
28 questions for our witness?

1 Counsel approach, please.

2 (Whereupon an unreported bench conference was then
3 had in open court between the Court and counsel.)

4 THE COURT: Okay. Miss Reuther, we are allowing our
5 jurors to ask questions. Sometimes they ask questions
6 because they may not have heard the answer, or they may not
7 have understood it, or they have additional questions.

8 So I'm going to ask you the question, and if you
9 would then please turn and respond to them.

10 Do you remember a person by the name of Danielle
11 Woodlee at Emeritus Emerald Hills? She was the concierge.

12 THE WITNESS: Yes. Yes, I do. She sat at the front
13 table when you came in, answered the phones. I do.

14 THE COURT: Okay. Who was it that told you you
15 could only have part of the MARs sheet?

16 THE WITNESS: The pill-givers. That was the only
17 place you could go to get the MARs was through -- there was
18 a locked door and right off of the dining area. And
19 usually there was at least one -- one person in there. But
20 they told me that I could not have the full-on MARs. I
21 could only have the area that showed what pills were on it.

22 THE COURT: Did they give you a reason why you could
23 only have part of it?

24 THE WITNESS: They said it was none of my business;
25 that it was not their -- it was -- they were told not to
26 release that part of it by management, to not release the
27 parts that showed when the medicine was given, and that
28 that was not part of what I needed to see.

1 THE COURT: With respect to the incident where you
2 told us about your mother was tied into her chair, do you
3 know if anyone ever filed a report with the State
4 Department of Social Services?

5 THE WITNESS: That was the one that I went to Rich
6 Lee with. And he said he would take care of it. And in my
7 knowledge, and lack of knowledge, with the State of
8 California, I presumed that because Lynda, the nurse had
9 been brought into it, and the two people that were a part
10 of the tying in, that the State would be involved.
11 Obviously, I didn't -- I learned that they weren't; that
12 the two had been spoken to and that that would not be
13 anything that would happen again. And that's why when I
14 found her on the floor, I went to the State myself. I
15 truthfully thought I was doing the right thing by going to
16 the management and didn't realize that my rights were -- I
17 probably could have gone farther with that situation. But
18 because I had not seen it myself, I allowed him to handle
19 the suggestion of what took place.

20 THE COURT: Would you describe or consider the
21 Emerald Hills living facility as hotel-like?

22 THE WITNESS: My mother wished it was.

23 No. Um, hotel like? No, it wasn't nearly that much
24 fun. I mean, they -- they served them three meals a day.
25 My mother was kept on the floor with the memory care. So,
26 no, that was not hotel-like. They could not lock their
27 doors. So people came into her room at all times of the
28 day and night. Memory care people have a tendency to

1 travel. And so you could never keep them -- sometimes I'd
2 be in and there would be another person sitting in her
3 chair and she'd be sitting somewhere else. I mean, you
4 know, they just let them roam.

5 So, no, I wouldn't consider that hotel-like. It was
6 more they would come and get them for three meals a day and
7 that was about it.

8 THE COURT: How often would you see the directors
9 interacting with the residents?

10 THE WITNESS: The directors of memory care, I'm
11 guessing. There was -- they had a lot of paperwork. I
12 mean, these are the memories that I have. Alicia was the
13 first. Then there was no memory care manager for a period
14 of time. They just had a girl that came over and -- once a
15 week and helped out. And that was the -- about the time
16 they did the Join the Journey.

17 THE COURT: Well, let me try and focus you in on the
18 question.

19 THE WITNESS: Okay.

20 THE COURT: The question is: How often, if at
21 all -- I should add -- did you see the directors
22 interacting with residents?

23 THE WITNESS: Um, not often with Alicia, the period
24 of time when there was no one. But when Beth started --
25 Beth had been hired the last probably eight months of my
26 mom's stay there. And she had been -- and she had been
27 entertaining -- a person that came once a month from the --
28 or once a week from the State to work with the people

1 there. And Beth really, really tried to work with the
2 people in the Memory Care Unit. And she was by far the one
3 that tried to do the most. I think if it hadn't been for
4 paperwork and meetings and -- she would have been -- that
5 was the one manager that I did see that worked with the
6 people.

7 THE COURT: Okay. So how often would you --

8 THE WITNESS: I would say she was working with them
9 at least four or five times a week. Four times a week, I
10 would say. Entertain -- trying to entertain them.

11 THE COURT: Did you ever see anyone from the
12 regional, divisional, or corporate offices at
13 Emerald Hills?

14 THE WITNESS: No. There would be meetings. You
15 could see that when you'd walk in there would be doors
16 shut. And the nurses -- the girls would say, *Oh, my gosh,*
17 *the head guy is here.* And there would be fear, as you'd
18 know. *What's going to happen? What's going on?* But they
19 would be locked in a meeting. They never introduced
20 themselves to any family members.

21 THE COURT: Why did you decide to put your mother in
22 assisted living when you believed she needed extra help?

23 THE WITNESS: Well, I didn't put her in assisted
24 living. Assisted living was the other side. And she
25 couldn't have done assisted living at this point. I put
26 her in the Memory Care Unit at Emerald Hills for a reason.
27 Because I knew -- or I thought, or I was told that there
28 was more care, even though it cost more. And she wasn't

1 into full on dementia at that point. There was no way she
2 could handle the blindness and the memory problems and be
3 in an assisted living. And I did not place her in assisted
4 living. I went there for the sole purpose of putting her
5 into the Memory Care Unit at Emerald Hills, where I was
6 told she would be well taken care of.

7 THE COURT: This juror would like to know, wouldn't
8 it have been appropriate to have placed her in a nursing
9 facility rather than where she was placed?

10 THE WITNESS: No. Um, because she wasn't that bad.
11 You would have had to know her to understand it. But her
12 blindness was a difficulty for her, but her interest in
13 life was bigger than that blindness. So to put her in a
14 nursing home where they would have just left her in a bed
15 all day long would have been the worst thing I could have
16 done to her.

17 No, there was never a question of putting her -- I
18 never put her in a nursing home, mainly because I knew that
19 the care would not be -- it would just be bed care. And
20 she didn't need bed care. She -- she listened to music
21 every day. She had talking books that I got for her
22 through the State. She could never have survived as long
23 as she did being in -- no, there was never a question in my
24 mind.

25 THE COURT: Could you clarify. At the time you
26 placed your mother at the Emerald Hills facility, was there
27 a nurse or was there not a nurse there?

28 THE WITNESS: Wow. And I know I messed that up. I

1 remember the day I met with Melissa and Nancy, and they
2 said there was a full-time nurse there all the time. And I
3 think it wasn't that first day that I met Peggy -- or that
4 Peggy came on, they said there would be an evaluation done
5 and Peggy would be doing it. I never saw an evaluation.
6 They moved mom in on my word that she was a good person for
7 this, or I brought her in and they said that she's going to
8 fit in perfectly. Peggy never did an evaluation that I
9 saw. In fact, I think I finally met her --

10 THE COURT: Okay. We're going a little bit beyond
11 the question.

12 THE WITNESS: Oh, okay.

13 THE COURT: You're going beyond the question.

14 So you believe there was a nurse there when you put
15 your mother in there?

16 THE WITNESS: Yes. Yeah.

17 THE COURT: Okay. Do you know why Mrs. Boice --
18 this would be Joan Boice -- was in a wheelchair?

19 THE WITNESS: Well, she had been walking with her
20 walker up --

21 THE COURT: No. Just try -- do you know why she
22 was --

23 THE WITNESS: I'm guessing the bedsores had started
24 in.

25 THE COURT: Don't guess. Don't guess, please.
26 Do you know why?

27 THE WITNESS: Oh. No.

28 THE COURT: Okay. Thank you.

1 How old was your mother when she died?

2 THE WITNESS: Eighty-nine.

3 THE COURT: Why did it not surprise you that the
4 Joan Boice family was suing Emerald Hills?

5 THE WITNESS: Well, the days that I saw them -- the
6 girls dealing with the bedsores was frightening. And they
7 told me, *This is so far out of our realm of care that*
8 *we're -- that we should be doing.* I mean, it was very sad.
9 And I knew that she got worse while she was in the home,
10 within three months, and that she died shortly after.

11 So just knowing what took place, and with those God
12 awful bedsores, I wasn't surprised that the family -- I
13 knew they were upset; that they brought a fairly healthy
14 woman that was admitted to the home, that they were able to
15 take care of her, and she left a very unhealthy woman.

16 THE COURT: With respect to your mother, did it take
17 two people to take her to the restroom?

18 THE WITNESS: No. Um, no. No. One person could
19 get -- she just couldn't find it. Once they could get her
20 standing up -- and she tried. Take my word for it, she
21 tried. But she didn't know how to find it. There was no
22 way for her to understand the room. But, no. She was
23 never ever where she didn't know how to --

24 THE COURT: Okay. I'm just going to just stop you.

25 THE WITNESS: Okay.

26 THE COURT: Because really what I am trying to do is
27 just get the question answered.

28 THE WITNESS: Oh, no.

1 THE COURT: Okay. Thank you.

2 So when you went to see your mother in the Memory
3 Care Unit, was the Memory Care Unit clean?

4 THE WITNESS: Debatable.

5 THE COURT: Okay. Was the Memory Care Unit tidy?

6 THE WITNESS: Sometimes.

7 THE COURT: When you went to visit in the Memory
8 Care Unit, did the residents appear to have clean hair?

9 THE WITNESS: You know, sometimes the girls, I
10 think -- a lot of them got their hair done at the beauty
11 shop once a week. So the beautician would come get them
12 and take them down to the beauty shop, a few of them. I --
13 you know, I didn't look at their hair closely. I would
14 watch my mom's. I was mainly focusing on mom. So I would
15 make sure that her hair was clean. So --

16 THE COURT: Okay. Did you have any observations
17 about the other residents and whether or not their teeth
18 had been brushed?

19 THE WITNESS: No, no.

20 THE COURT: Okay. Did you have any observations as
21 to whether or not any of the other residents were wearing
22 clean clothes?

23 THE WITNESS: Sometimes. I mean, it was a group
24 that -- that obviously spilled on themselves a lot. I -- I
25 think some of them dressed themselves many times. I saw
26 dirty clothes.

27 THE COURT: Okay. How did the memory care smell to
28 you when you went into it?

1 THE WITNESS: Oh, well, that was an issue. Um, they
2 had one -- Jesse was her name -- who was --

3 THE COURT: How did the memory care --

4 THE WITNESS: It smelled like urine because she peed
5 on the rugs.

6 THE COURT: Okay. Did you ever have any
7 conversations with your mother regarding the staff's
8 responding to her pendant?

9 THE WITNESS: Constantly.

10 THE COURT: Okay. Did your mother ever tell you
11 whether or not she felt they were responding to her in a
12 timely manner?

13 THE WITNESS: She never felt like they were
14 responding to her in a timely manner.

15 THE COURT: Did you ever witness anyone helping your
16 mother to eat?

17 THE WITNESS: They would show her, um, where her
18 fork -- I was told they could not help mother eat, mom eat;
19 that that was not part of the Memory Care Unit's -- they
20 could not state-wide or something. So they would put her
21 hands on where her silverware was, so that she could find
22 her silverware. And she knew how to hold her plate.

23 THE COURT: Did you ever witness anyone helping Joan
24 Boice to eat?

25 THE WITNESS: No.

26 THE COURT: Did you ever witness anyone cutting up
27 food for either your mother or Joan Boice?

28 THE WITNESS: Yes.

1 THE COURT: Who did you -- whose food was being cut
2 up?

3 THE WITNESS: I didn't see Joan's food being cut up.
4 I know my mom's food was cut up.

5 THE COURT: Did you ever witness anyone encouraging
6 your mother to eat?

7 THE WITNESS: Yes.

8 THE COURT: Did you ever witness anyone encouraging
9 Joan Boice to eat?

10 THE WITNESS: No.

11 THE COURT: Based on your experiences at
12 Emerald Hills, do you believe that they lived up to the
13 advertisement of what the facility would provide?

14 THE WITNESS: No.

15 THE COURT: Miss Clement, do you wish to follow up?

16 MS. CLEMENT: No, your Honor.

17 THE COURT: Mr. Reid, do you wish to follow up?

18 MR. REID: No, your Honor.

19 THE COURT: All right. May we excuse this witness?

20 MS. CLEMENT: Yes.

21 MR. REID: Yes, your Honor.

22 THE COURT: Thank you very much. You're excused.

23 THE WITNESS: Thank you.

24 THE COURT: Ladies and gentlemen, let's take our
25 afternoon break. Leave your notebooks on the chairs.
26 Remember the admonitions. Let's be back, ready to go, at
27 3:30.

28 We are in recess.